



The California Managed Risk Medical Insurance Board

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October 12, 2007

To: MRMIB Members

From: Lesley Cummings
Executive Director

Re: Need for adoption of emergency regulations for authority to establish a waiting list and process for disenrollment in the Healthy Families Program (HFP)

Enclosed in your Board packets is a set of regulations I am asking you to adopt on an emergency basis at our October 24 Board meeting. I am asking you to do so with a heavy heart, but feel that given the funding uncertainties for SCHIP, the Board, which is required to be a prudent manager of the program, needs to be prepared to act quickly if the federal government fails to provide sufficient funding for HFP.

To be prepared for a potential shortfall of federal dollars, I am asking for regulations that will allow HFP to create a waitlist and/or initiate disenrollments, but **ONLY** if the Board determines at a later date that such a step is necessary given the funding situation. I am not suggesting that the Board establish a waiting list or initiate disenrollments now. I simply want the Board to have the tools to act if difficult steps are needed in the future.

Preparing for Level or Reduced Federal SCHIP Funding Does Not Mean California Has Given Up on Obtaining Adequate Funding. Governor Schwarzenegger, members of the California State Legislature, members of California's Congressional Delegation, California stakeholders and advocates are working assiduously to ensure California has stable, adequate funding. I remain hopeful that these efforts will prevail. Adoption of these regulations does not mean that the Board is establishing a waiting list or a disenrollment process. My earnest hope is that it will never have to. I am urging adoption of the regulations now only to ensure that the Board has tools that it may or may not choose to use once more is known about federal funding.

The regulations are needed for a series of reasons:

- *State Law Requires the Board to be a Prudent Fiscal Steward.* As you know, the HFP statute requires that the Board operate the program within the funding available. Insurance Code Section 12693.21(n) says that the board is to "maintain enrollment and expenditures to ensure that expenditures do not exceed amounts available in the Healthy Families Fund and, if sufficient funds are not available to cover the estimated cost of program expenditures, the Board shall institute appropriate measures to limit enrollment."
- *The Status Quo is Inadequate for California.* As we have discussed in prior Board meetings, California needs between \$2.8 to \$4.2 billion in new federal dollars to fund existing caseload for FFY's 2008-2012. More would be needed to expand HFP to 300 percent of the federal poverty limit as the Governor and Democratic leadership have called for. In FFY 2008, California needs \$1.3 billion in total federal dollars (\$255 million in new funds) to sustain its programs.

- *The Long-Term Federal Commitment to HFP is Uncertain.* H.R. 976, the bipartisan Congressional compromise bill sent to the President, would have likely provided sufficient funding to California. But given the presidential veto of the bill, it is not possible to predict if the federal government will ultimately provide the funding needed to maintain our program.
- *The Short-Term Funding Situation is Uncertain as Well.* President Bush has signed a continuing resolution that provides funding for the country's SCHIP programs through November 15, 2007. Apparently some states have carry-over funds that will allow them to operate past that date. California does not. If the veto of H.R. 976 is not overridden, Congress is likely to extend temporary funding for the program pending a more long-term resolution. Thus, it is very likely that some level of additional funding will be provided after November 15. However, it is impossible to predict what level of funding will be provided and for how long.
- *A Five Year Budget from the Federal Government Is Needed, and Has Not Been Provided.* If California were aware of its five year allotment, MRMIB would have the opportunity to carefully consider how best to manage the program within the funding available and to make the programmatic changes needed to do so. But the shorter the time period for making programmatic changes, the fewer options are available. The fact that we are three weeks into the FFY 2008 fiscal year and still do not know our funding allocation for the year makes sensible program planning extremely challenging.
- *Other Options Are Being Reviewed.* Staff is conducting a "soup to nuts" assessment of options for addressing any federal shortfalls. However, most will require a long time frame for implementation.
- *These Regulations Reestablish Previous Wait List Authority.* HFP regulations as originally adopted by the board contained language authorizing establishment of a waiting list for children in the event of funding shortfalls. However, as a condition of its approval of the HFP parental waiver, the federal Centers for Medicare and Medicaid (CMS) required California to remove the provision from the regulations so that parental coverage would not occur at the expense of children's coverage. Now that the CMS requirement is no longer operable, the Board must act to re-establish the wait list provision in regulation.
- *These Regulations Give the Board Some Tools to Respond to the Federal Situation Quickly Should Major Reductions be Necessary.* **Again, I am not recommending that the Board establish a waiting list or begin disenrolling children now.** Hopefully, there will be a successful resolution nationally on SCHIP funding and I will never have to make either of these suggestions.

But given the short and long term uncertainties concerning SCHIP financing, I am suggesting that you adopt regulations authorizing you to establish a wait-list and/or a disenrollment process if you determine at a future meeting that such action is necessary given funding shortfalls. Quick action would be important because the sooner in a fiscal year the Board acts, the fewer children would be adversely affected. If no new funding is provided for the program, all federal dollars will run out by mid-summer. This could cause all HFP children to lose coverage. However, if enrollment were capped and disenrollments were made prior to June, then some children could be kept in the program for the full year.